

Senate Bill 93

By: Senators Smith of the 52nd, Thomas of the 54th, Hill of the 32nd and Unterman of the 45th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 enact the "Patient Disclosure for Eye Surgery Act"; to provide for the delegation of
3 postoperative eye care for a patient who has undergone eye surgery; to provide for
4 definitions; to provide for comanagement agreements; to provide for requirements for
5 delegation; to provide for an affirmative defense; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
10 after Chapter 9A a new Chapter 9B to read as follows:

11 "CHAPTER 9B

12 31-9B-1.

13 This chapter shall be known and may be referred to as the 'Patient Disclosure for Eye
14 Surgery Act.'

15 31-9B-2.

16 As used in this chapter, the term:

17 (1) 'Board' means the Composite State Board of Medical Examiners.

18 (2) 'Operating physician' means a physician who performs eye surgery.

19 (3) 'Optometrist' means a person who is licensed and registered to practice optometry in
20 this state pursuant to Chapter 30 of Title 43.

21 (4) 'Physician' means a person who is licensed to practice medicine in this state pursuant
22 to Chapter 34 of Title 43.

1 31-9B-3.

2 (a) Except as otherwise provided in this subsection, an operating physician in this state
3 shall be physically available to a patient for postoperative care in the community in which
4 the operation was performed for at least 48 hours after the surgery is completed. Such
5 operating physician may delegate the responsibility for the first 48 hours of postoperative
6 care for a patient for whom the physician performed eye surgery in this state only by
7 entering into a comanagement agreement with another physician or an optometrist to
8 provide such postoperative care under the provisions of this Code section. Such delegation
9 may only be made through a comanagement agreement that meets the requirements of this
10 Code section and if the person to whom the responsibility is delegated is:

11 (1) An optometrist; or

12 (2) A physician.

13 (b) A comanagement agreement for postoperative eye care of a patient must meet the
14 following requirements:

15 (1) The agreement may be entered into only when:

16 (A) The distance the patient would have to travel to the regular office of the operating
17 physician would result in an unreasonable hardship for the patient, as determined by the
18 patient;

19 (B) The operating physician will not be available for postoperative eye care of the
20 patient as a result of the operating physician's personal travel, illness, travel to a rural
21 area of the state for occasional practice of medicine, or travel to an area of the state
22 designated as a physician shortage area by the board; or

23 (C) Other justifiable circumstances exist, as provided under regulations of the board;

24 (2) The agreement may not provide a fee to the person to whom the care is delegated that
25 does not reflect the fair market value of the services provided by such person;

26 (3) The agreement may be entered into only if the operating physician confirms that the
27 person to whom the care is delegated is qualified to treat the patient during the
28 postoperative period and is licensed or certified to provide the care if licensing or
29 certification is required by law;

30 (4) The agreement may not take effect unless there is a written statement in the operating
31 physician's file and in the files of the person to whom postoperative eye care is being
32 delegated that is signed by the patient in which the patient states the patient's consent to
33 the comanagement agreement and in which the patient acknowledges that the details of
34 the comanagement agreement have been explained to the extent required under paragraph
35 (5) of this subsection; and

36 (5) The details of the agreement shall be disclosed to the patient in writing before surgery
37 is performed. The disclosure required under this paragraph shall include:

1 (A) The reason for the delegation;

2 (B) The qualifications, including licensure or certification, of the person to whom the
3 care is delegated;

4 (C) The financial details about how the surgical fee will be divided between the
5 operating physician and the person who provides the postoperative eye care;

6 (D) A notice that, notwithstanding the delegation of care, the patient may receive
7 postoperative eye care from the operating physician at the patient's request without the
8 payment of additional fees;

9 (E) A statement that the operating physician will be ultimately responsible for the
10 patient's care until the patient is postoperatively stable;

11 (F) A statement that there is no fixed date on which the patient will be required to
12 return to the referring physician or optometrist; and

13 (G) A description of special risks to the patient that may result from the comanagement
14 agreement.

15 (c) An operating physician may not enter into a comanagement agreement governed by
16 this Code section:

17 (1) Under which two or more physicians or optometrists agree to comanage patients of
18 the operating physician as a matter of routine policy rather than on a case-by-case basis;

19 (2) That is not clinically appropriate for the patient;

20 (3) That is made with the intent to induce surgical referrals; or

21 (4) That is based on economic considerations affecting the operating physician.

22 (d) A physician or optometrist may not require as a condition of making referrals to an
23 operating physician that the operating physician must enter into a comanagement
24 agreement with the physician or optometrist for the postoperative eye care of the patient
25 who is referred.

26 (e) A physician or optometrist to whom postoperative eye care is delegated under a
27 comanagement agreement governed by this Code section may not delegate the care to
28 another person, regardless of whether such person is under the supervision of the physician
29 or optometrist.

30 (f) It shall be an affirmative defense to a prosecution under this Code section or in a
31 disciplinary proceeding for violation of this Code section that the operating physician
32 delegated postoperative eye care of a patient because of unanticipated circumstances that
33 were not reasonably foreseeable by such physician before the surgery was performed."

34 SECTION 2.

35 All laws and parts of laws in conflict with this Act are repealed.